

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

CAROLYN MITCHELL,)
)
Plaintiff,)
)
vs.)
)
ANCHORAGE POLICE DEPARTMENT and)
the MUNICIPALITY OF ANCHORAGE, a)
municipal corporation, WALTER)
MONEGAN, OFFICER HENIKMAN, and)
OFFICER J. VOSS,)
)
Defendants.)

Case No. A05-273 CV (JWS)

VIDEOTAPE DEPOSITION OF OFFICER JUSTIN C. VOSS

APPEARANCES:

FOR THE PLAINTIFF: MR. MOSHE CALBERG ZOREA
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FOR THE DEFENDANTS: MS. JOYCE WEAVER JOHNSON
Assistant Municipal Attorney
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ALSO PRESENT: MS. CAROLYN MITCHELL

* * * * *

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ANCHORAGE, ALASKA 99501

1 A Um-hum.

2 Qtaught you that under those circumstances you take
3 the person into custody?

4 A Correct.

5 Q Okay. Did they indicate to you that there was any
6 criteria other than what you've testified to that was
7 needed in order to take somebody into custody?

8 MS. JOHNSON: Objection, foundation.
9 Mischaracterizes the testimony.

10 Q Okay. Is there anything else that you were trained
11 that was necessary in order to take someone into
12 custody?

13 A I'm not sure if I understand the question.

14 Q Well, you've testified as to what preceded her being
15 taken into custody and I'm asking whether that was --
16 what you testified was done was all that was needed in
17 order to take somebody into custody?

18 A I -- well, there's reasonable suspicion and I -- I've
19 seen the levels of evidence describe those kind of
20 straight line continuum where a preponderance of the
21 evidence is 51 percent. Proof beyond a reasonable
22 doubt is way up here like 95 percent maybe, or
23 something to that effect. And reasonable suspicion is
24 down here. And I think what you're asking is did the
25 three things that I saw add up to that, or could there

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1 Q Did they say watch out for mother and child leaving the
2 store?

3 A The locate that was there had nothing to do -- didn't
4 mention anything about a child or if the suspect was a
5 mother.

6 Q Okay. But this suspect, Ms. Mitchell, had a child?

7 A Correct.

8 Q So what did that do to the reasonable suspicion index?

9 MS. JOHNSON: Objection, form.

10 A I don't think it effected it at all.

11 Q Okay. All right. So what happened? There you are.
12 You're assisting Officer Henikman, I understand. And
13 there is a young man there who you believe is -- or you
14 agree is the son of Ms. Mitchell. What did you do?
15 What did you do with the young man?

16 A I -- I can't recall specifically.

17 Q Did Ms. Mitchell make any acts that appeared to be
18 threatening in any way?

19 A At what point?

20 Q Any point?

21 A I don't recall that she did, no.

22 Q Well, my understanding is that she comes out, the other
23 people are dispersed away. Did that leave two people
24 that were there left to deal with, Ms. Mitchell and her
25 son?

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- 1 A I believe so.
- 2 Q And Ms. Mitchell had not made any threatening gestures?
- 3 A No.
- 4 Q Okay. So then what did you do, or what happened in
- 5 your vision? What did you see happen?
- 6 A After what point. We're going -- going back and forth.
- 7 I'm just not sure what.....
- 8 Q The people are -- the people are gone.
- 9 A Um-hum.
- 10 Q The only people there are Ms. Mitchell and her son.
- 11 Well, then what happened?
- 12 A After she -- are you asking after she was taken into
- 13 custody or.....
- 14 Q Well, no, no. Right --when they first came out, you
- 15 spread those others away.
- 16 A Um-hum.
- 17 Q And there are left Ms. Mitchell and her son. So what
- 18 actions did you or your cohort take at that point?
- 19 A At that point Officer Henikman and I gave verbal
- 20 commands to Ms. Mitchell. I don't recall specifically
- 21 what they were but most likely they were to keep her
- 22 hands up and face away from us. Maybe put down any
- 23 objects that she had. And then we took her into
- 24 custody by placing hand cuffs on her and.....
- 25 Q Okay. So you've got it all kind of lumped together.

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1 you deal with others as well. Correct me if I'm wrong.
2 A I just -- I don't understand the question. You keep
3 referring -- the questions are hypothetical in nature
4 and then when I answer you you're telling me that it's
5 specifically what happened to Ms. Mitchell. And I
6 don't.....

7 Q Well, what's your training? You testified reasonable
8 suspicion, detain, take them into custody. Is that the
9 chronology of events?

10 MS. JOHNSON: Objection, misstates the
11 testimony. Form.

12 Q Is that the chronology of events that you have just
13 testified to today?

14 A I don't.....

15 Q Okay. What is your -- you've already given us a
16 definition of reasonable suspicion. So what happens
17 after reasonable suspicion?

18 A What I just described. She was detained by hand cuffs
19 being placed on her.

20 Q Okay.

21 A We held her in custody and we -- for furtherance of the
22 investigation for -- I don't remember exactly how long
23 it was but in order that we could -- so that we could
24 further the investigation by performing a show up.

25 Q Okay. So that's what I was asking you. What you just

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1 testified to, that is what you were trained to believe
2 is correct, is that right?

3 A Well, I.....

4 Q Or were you doing something that you were not trained
5 to do?

6 MS. JOHNSON: Objection, foundation. Form and
7 argumentative.

8 Q Okay. Were you trained to do what you just said the
9 chronology was, or were you just doing it for the heck
10 of it?

11 A The events I just described.....

12 Q Yes.

13 Awere consistent with my training.

14 Q Okay. Thank you. That's what I was asking. Okay. So
15 a person is hand cuffed, and were you trained as to
16 what you do with a hand cuffed person?

17 A Yes.

18 Q Okay. What was the training that you received about
19 what you do with the hand cuffed person?

20 A Again, are we talking hypothetically about anybody
21 that's hand cuffed or.....

22 Q Well, we'll speak about Ms. Mitchell. What were you to
23 do with her?

24 A I didn't continue the contact with Ms. Mitchell.
25 Officer Henikman did.

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1 was possible.

2 Q And so big deal, right?

3 MS. JOHNSON: Objection to.....

4 Q That's all right?

5 MS. JOHNSON:form.

6 Q Is that -- is that what you're saying, it's perfectly
7 fine to have her be isolated and hand cuffed in front
8 of the public when you have not had any probable cause
9 to arrest her?

10 MS. JOHNSON: Same objection.

11 A I would say that procedurally speaking there is nothing
12 wrong with that.

13 Q Nothing wrong with that. Okay.

14 A Procedurally speaking, no.

15 Q Okay. This is your training again?

16 A Correct.

17 Q Do you have any history, background, did you ever take
18 any courses in history?

19 A I had some history in high school.

20 Q Remember in Nazi Germany that's what they used to do,
21 the same thing. And they thought it was fine.

22 Remember that training?

23 MS. JOHNSON: Objection, form.

24 A No.

25 Q Just detain people, cuff them, put them out there for

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